

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY APRIL 3, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1614

Introduced by Assembly Member Stone

February 6, 2014

An act to amend Section 123302 of the Health and Safety Code, and to amend Section 10072 of, and to add Section 10072.3 to, the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1614, as amended, Stone. Electronic benefits transfer cards.

(1) Existing law provides for financial and food assistance benefits to needy Californians including, among other programs, the California Work Opportunity and Responsibility to Kids (CalWORKs) program and CalFresh, under which each county provides for financial and food assistance benefits to qualified individuals who meet specified eligibility criteria.

Existing law, administered by the State Department of Social Services, provides for the establishment of a statewide electronic benefits transfer (EBT) system for the purpose of providing those financial and food assistance benefits. Existing law authorizes a county to deliver CalFresh benefits and, upon election by the county, CalWORKs benefits through the use of an EBT system. Existing law requires, among other things, that the system have a 24-hour per day toll-free telephone hotline for the reporting of lost or stolen cards that will provide recipients with information on how to have the card and personal identification card number replaced.

This bill would require the 24-hour toll-free telephone hotline to provide recipients, at no additional cost, the above-described information and to allow an authorized representative or head of household to access or request the transaction history detail, as specified. This bill would require the system to have an Internet Web site that will provide the same information and allow ~~the same access~~. *an authorized representative or head of household to view or request the transaction history detail.*

The bill would require a county human services agency to make available to an authorized representative or head of household all electronic benefit transaction history details that are available to the county human services agency within 10 business days after a request has been received.

This bill would also require that the EBT system be designed to inform recipients when the system does not function or is expected not to function for more than a one-hour period between 6:00 a.m. and midnight during any 24-hour period.

(2) Existing law, except as specified, authorizes a recipient to be charged a fee, not to exceed the amount allowable by applicable state and federal law and customarily charged to other customers, for cash withdrawal transactions that exceed 4 per month.

This bill would require the EBT system to be designed to ensure that recipients of benefits under the CalWORKs program have access to using or withdrawing benefits with minimal fees or charges, including an opportunity to access benefits with no fee or charges. This bill would also create the Electronic Benefits Transfer System Consumer Protection, Financial Empowerment, and Cash Access Fund for the receipt of moneys from federal, state, and private funds. The bill would allocate moneys in this fund, upon appropriation by the Legislature, to the department for specified purposes.

(3) Existing law requires that EBT system consumers be informed regarding how to use the EBT card and how to protect the card from misuse.

This bill would also require a consumer to be informed of where they can use their EBT cards to withdraw benefits without incurring a fee, charge, or surcharge. This bill would also require the county to inform an applicant for benefits under the CalWORKs program of, among other things, the methods of electronic delivery of benefits available and any applicable fees, charges, or surcharges associated with each method of electronic delivery.

This bill would also make a conforming change.

By increasing the duties of counties in administering public social services programs, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 123302 of the Health and Safety Code
- 2 is amended to read:
- 3 123302. (a) (1) Notwithstanding any other law, the
- 4 department may design, implement, and fund an electronic benefits
- 5 transfer (EBT) system for the California Special Supplemental
- 6 Food Program for Women, Infants, and Children. Sections 10066,
- 7 10067, and 10068 of, and subdivision (l) of Section 10072 of, the
- 8 Welfare and Institutions Code, shall apply to the administration
- 9 of this section.
- 10 (2) The department shall not implement any EBT system
- 11 authorized by this section until the department completes a
- 12 feasibility study, and funding for the system is provided in the
- 13 annual Budget Act.
- 14 (b) The department shall seek the advice of the Electronic
- 15 Benefits Transfer Committee, created by Section 10067 of the
- 16 Welfare and Institutions Code, in implementing this section, and
- 17 shall obtain the approval of the United States Department of
- 18 Agriculture, which is the federal governing agency, prior to the
- 19 establishment of any EBT system.
- 20 (c) The department shall develop a plan to determine the
- 21 feasibility of implementing an EBT system for the California
- 22 Special Supplemental Food Program for Women, Infants, and
- 23 Children by January 1, 2003, and shall report its findings to the
- 24 Legislature by July 1, 2003.

SEC. 2. Section 10072 of the Welfare and Institutions Code is amended to read:

10072. The electronic benefits transfer system required by this chapter shall be designed to do, but not be limited to, all of the following:

(a) To the extent permitted by federal law and the rules of the program providing the benefits, recipients who are required to receive their benefits using an electronic benefits transfer system shall be permitted to gain access to the benefits in any part of the state where electronic benefits transfers are accepted. All electronic benefits transfer systems in this state shall be designed to allow recipients to gain access to their benefits by using every other electronic benefits transfer system.

(b) To the maximum extent feasible, electronic benefits transfer systems shall be designed to be compatible with the electronic benefits transfer systems in other states.

(c) All reasonable measures shall be taken in order to ensure that recipients have access to electronically issued benefits through systems such as automated teller machines, point-of-sale devices, or other devices that accept electronic benefits transfer transactions. Benefits provided under Chapter 2 (commencing with Section 11200) of Part 3 shall be staggered over a period of three calendar days, unless a county requests a waiver from the department and the waiver is approved, or in cases of hardship pursuant to subdivision (o).

(d) The system shall provide for reasonable access to benefits to recipients who demonstrate an inability to use an electronic benefits transfer card or other aspect of the system because of disability, language, lack of access, or other barrier. These alternative methods shall conform to the requirements of the Americans with Disabilities Act (42 U.S.C. Sec. 12101, et seq.), including reasonable accommodations for recipients who, because of physical or mental disabilities, are unable to operate or otherwise make effective use of the electronic benefits transfer system.

(e) The system shall permit a recipient the option to choose a personal identification number, also known as a "PIN" number, to assist the recipient to remember his or her number in order to allow access to benefits. Whenever an institution, authorized representative, or other third party not part of the recipient household or assistance unit has been issued an electronic benefits

1 transfer card, either in lieu of, or in addition to, the recipient, the
2 third party shall have a separate card and personal identification
3 number. At the option of the recipient, he or she may designate
4 whether restrictions apply to the third party's access to the
5 recipient's benefits. At the option of the recipient head of
6 household or assistance unit, the county shall provide one electronic
7 benefits transfer card to each adult member to enable them to
8 access benefits.

9 (f) The system shall have a 24-hour per day toll-free telephone
10 hotline for the reporting of lost or stolen cards that will provide
11 recipients, at no additional cost to the recipient, with information
12 on how to have the card and personal identification number
13 replaced, and that will allow an authorized representative or head
14 of household to access, over the telephone, the transaction history
15 detail for at least the last 10 transactions and to request that the
16 transaction history detail for at least the past two months be sent
17 by mail.

18 (g) The system shall have an Internet Web site that will provide
19 recipients, at no additional cost to the recipient, with information
20 on how to have the card and personal identification number
21 replaced, and that will allow an authorized representative or head
22 of household to ~~access~~ *view* the transaction history detail for at
23 least the last 10 transactions ~~over the telephone~~ and to request that
24 the transaction history detail for at least the past two months be
25 sent by mail.

26 (h) In addition to the ability to receive transaction history detail
27 pursuant to subdivisions (f) and (g), a county human services
28 agency shall make available to an authorized representative or
29 head of household, at no additional cost to the authorized
30 representative or head of household, all electronic benefit
31 transaction history details that are available to the county human
32 services agency within 10 business days after a request has been
33 received by the agency.

34 (i) (1) A recipient shall not incur any loss of electronic benefits
35 after reporting that his or her electronic benefits transfer card or
36 personal identification number has been lost or stolen. The system
37 shall provide for the prompt replacement of lost or stolen electronic
38 benefits transfer cards and personal identification numbers.
39 Electronic benefits for which the case was determined eligible and
40 that were not withdrawn by transactions using an authorized

1 personal identification number for the account shall also be
2 promptly replaced.

3 (2) A recipient shall not incur any loss of cash benefits that are
4 taken by an unauthorized withdrawal, removal, or use of benefits
5 that does not occur by the use of a physical EBT card issued to the
6 recipient or authorized third party to directly access the benefits.
7 Benefits taken as described in this paragraph shall be promptly
8 replaced in accordance with the protocol established by the
9 department pursuant to paragraph (3).

10 (3) The State Department of Social Services shall establish a
11 protocol for recipients to report electronic theft of cash benefits
12 that minimizes the burden on recipients, ensures prompt
13 replacement of benefits in order to minimize the harm to recipients,
14 and ensures program integrity. This protocol may include the
15 automatic replacement of benefits without the need for recipient
16 reporting and verification.

17 (j) Electronic benefits transfer system consumers shall be
18 informed on how to use electronic benefits transfer cards, how to
19 protect their cards from misuse, and where consumers can use their
20 cards to withdraw benefits without incurring a fee, charge, or
21 surcharge.

22 (k) The electronic benefits transfer system shall be designed to
23 inform recipients when the electronic benefits transfer system does
24 not function or is expected not to function for more than a one-hour
25 period between 6 a.m. and midnight during any 24-hour period.
26 This information shall be made available in the recipient's preferred
27 language if the electronic benefits transfer system vendor contract
28 provides for services in that language.

29 (l) Procedures shall be developed for error resolution.

30 (m) No fee shall be charged by the state, a county, or an
31 electronic benefits processor certified by the state to retailers
32 participating in the electronic benefits transfer system.

33 (n) Except for CalFresh transactions, a recipient may be charged
34 a fee, not to exceed the amount allowed by applicable state and
35 federal law and customarily charged to other customers, for cash
36 withdrawal transactions that exceed four per month.

37 (o) The electronic benefits transfer system shall be designed to
38 ensure that recipients of benefits under Chapter 2 (commencing
39 with Section 11200) of Part 3 have access to using or withdrawing

benefits with minimal fees or charges, including an opportunity to access benefits with no fee or charges.

(p) A county shall exempt an individual from the three-day staggering requirement under subdivision (c) on a case-by-case basis for hardship. Hardship includes, but is not limited to, the incurrence of late charges on an individual's housing payments.

(q) A county shall inform an applicant for benefits under Chapter 2 (commencing with Section 11200) of Part 3 of all of the following:

(1) The methods of electronic delivery of benefits available, including distribution of benefits through the electronic benefits transfer system or direct deposit pursuant to Section 11006.2, the applicable fees, charges, or surcharges associated with each method of electronic delivery, consumer and privacy protections, protections from garnishment, and liability for theft.

(2) That a recipient may authorize any available method of electronic delivery of benefits and instructions regarding how the recipient may select or change his or her preferred method of electronic delivery of benefits and that the recipient shall be given the opportunity to select the method prior to the first payment.

(3) That a recipient may be entitled to an alternative method of delivery if the recipient demonstrates an inability to use an electronic benefits transfer card or other aspect of the system because of disability, language, lack of access, or other barrier pursuant to subdivision (d) and instructions regarding how to determine whether the recipient qualifies for an alternative method of delivery.

(4) That a recipient may be entitled to an exemption from the three-day staggering requirement under subdivision (c) on a case-by-case basis for hardship pursuant to subdivision (o) and instructions regarding how to determine whether the recipient qualifies for the exemption.

SEC. 3. Section 10072.3 is added to the Welfare and Institutions Code, to read:

10072.3. (a) There is hereby created in the State Treasury the Electronic Benefits Transfer System Consumer Protection, Financial Empowerment, and Cash Access Fund. The fund may consist of federal, state, and private funds.

(b) Notwithstanding any other law, moneys in the fund, upon appropriation by the Legislature, shall be allocated to the

1 department for the purpose of ensuring that recipients of benefits
2 under Chapter 2 (commencing with Section 11200) of Part 3 are
3 educated about their consumer rights and financial management
4 tools and services, and how to access their benefits with minimal
5 fees or charges, including an opportunity to access benefits with
6 no fee or charges.

7 (c) Moneys in the fund may be used by the department or
8 allocated to county human services agencies or other public entities,
9 as determined by the department, in consultation with county
10 human services agencies and advocates for low-income consumers.

11 (d) Activities funded by the fund that meet the goals of the
12 CalWORKs program, particularly by helping parents successfully
13 prepare for employment, shall be applied to the federal work
14 participation hours required by Section 11322.8 if the department
15 receives a waiver of compliance with Section 602 of Title 42 of
16 the United States Code from the United States Department of
17 Health and Human Services or otherwise determines that activities
18 meet the requirements set forth under federal law without a waiver.

19 SEC. 4. If the Commission on State Mandates determines that
20 this act contains costs mandated by the state, reimbursement to
21 local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.